

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **August 13, 2002**

AGENDA ITEM NO.: **19**

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: \$7,875,000 Loan from the Virginia Public School Authority Interest Subsidy Program for Linkhorne Middle School

RECOMMENDATION: City Council is requested to take the following actions regarding retirement of \$7,500,000 outstanding Bond Anticipation Notes for Linkhorne Middle School:

- (a) Conduct a Public Hearing in accordance with Sec. 15.1-227.8 (A) of the Code of Virginia for the issuance of \$7,875,000 Virginia Public School Authority (VPSA) Bonds
- (b) Adopt a resolution authorizing the issuance of an amount not to exceed \$7,875,000 Virginia Public School Authority Bonds
- (c) Appropriate \$7,500,000 for the retirement of \$7,500,000 General Obligation Public Improvement Bond Anticipation Notes issued for the Linkhorne Middle School Renovation/Construction project
- (d) Appropriate \$13,500 for estimated bond issuance costs

SUMMARY: In January 2001, the City applied for a \$7,500,000 State Literary Fund Loan (3% interest) for the Linkhorne Middle School renovation/construction project. Typically there is a waiting period of twelve to eighteen months before State Literary Loan proceeds are released to the applicant. In order to meet the construction schedule for this project, \$7,500,000 General Obligations Bond Anticipation Notes (BANS) were issued on August 2001 with a maturity date of August 2004. These notes were issued to provide short-term financing in anticipation of receiving the State Literary Fund Loan. With the State Budget situation, there are no State Literary Funds available. As an option, the City can substitute the State Literary Loan with a Virginia Public School Authority Interest Subsidy Loan with the same 3% effective interest rate. In order to provide for long-term financing, the Virginia Public School Authority Bonds will be issued to replace the BANS. Participation in the VPSA Interest Subsidy Loan will provide the City the option of redeeming the FY 2000 BANS in December 2002. Interest savings on the early redemption of the FY 2001 BANS will be \$35,625 for FY 2003, and \$106,825 for FY 2004. The Virginia Public School Authority has recommended that authority to issue \$7,875,000 be approved in the event the bonds are issued at a discount. This will ensure that the City receives \$7,500,000 in net proceeds to retire the BANS.

PRIOR ACTION(S): August 6, 2002: Finance and Planning Committee

FISCAL IMPACT: Increased annual principal and interest payments. Retirement of the BANS consistent with long-term financial plan for funding construction of Linkhorne Middle School

CONTACT(S): Michael W. Hill 847-1595 ext. 293

ATTACHMENT(S): Resolution authorizing the issuance of \$7,875,000 Virginia Public School Authority Bonds

REVIEWED BY:

Resolution

- A. Conduct a Public Hearing in accordance with Sec. 15.1-227.8 (A) of the Code of Virginia for the issuance of \$7,875,000 Virginia Public School Authority (VPSA) Bonds
- B. Consideration of adopting the attached resolution authorizing the issuance of \$7,875,000 Virginia Public School Authority Bonds
- C. BE IT RESOLVED That \$7,500,000 is appropriated from the School Capital Projects Fund to the General Fund, with reappropriation thereafter to the School Operating Budget, with resources of \$7,500,000 from the VPSA bond proceeds for redemption of the \$7,500,000 Series 2001 Bond Anticipation Notes; and

BE IT FURTHER RESOLVED That \$13,500 is appropriated from the School Capital Projects Fund, for expenses associated with the issuance of the \$7,875,000 VPSA Bonds

Introduced:

Adopted:

Certified:

Clerk of Council

164L

A RESOLUTION OF THE COUNCIL OF THE CITY OF LYNCHBURG, VIRGINIA, AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$7,875,000 GENERAL OBLIGATION SCHOOL BONDS OF THE CITY OF LYNCHBURG, VIRGINIA, SERIES 2002B, TO BE SOLD TO THE VIRGINIA PUBLIC SCHOOL AUTHORITY AND PROVIDING FOR THE FORM AND DETAILS THEREOF

WHEREAS, the Council (the "Council") of the City of Lynchburg, Virginia (the "City") deems it advisable and in the best interest of the City to redeem in advance of their stated maturity the City's \$7,500,000 principal amount of General Obligation Public Improvement Bond Anticipation Notes, Series 2001, dated August 1, 2001, which are subject to redemption prior to maturity at the option of the City at any time on or after August 1, 2002 at a redemption price equal to the principal amount thereof, together with the interest accrued thereon to the date fixed for the redemption thereof (the "BANs");

WHEREAS, the Council has determined that it is necessary and expedient to borrow not to exceed \$7,875,000 and to issue its general obligation school bonds for the purpose of financing or refinancing various capital school improvement projects (including refinancing the BANs);

WHEREAS, the Council has held a public hearing, duly noticed, on August 13, 2002, on the issuance of the Bonds (as defined below) in accordance with the requirements of Section 15.2-2606 of the Code of Virginia, 1950 (the "Virginia Code"); and

WHEREAS, the School Board has, by resolution, requested the Council to authorize the issuance of the Bonds and has consented to the issuance of the Bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG, VIRGINIA:

1. Authorization of Bonds and Use of Proceeds. The Council hereby determines that it is advisable to contract a debt and issue and sell its general obligation school bonds in an aggregate principal amount not to exceed \$7,875,000 (the "Bonds") for the purpose of financing or refinancing various capital school improvement projects (including refinancing the BANs). The Council hereby authorizes the issuance and sale of the Bonds pursuant to Title 15.2, Chapter 26 of the Virginia Code (the same being the Public Finance Act of 1991) and in the form and upon the terms established pursuant to this Resolution.

2. Sale of the Bonds. It is determined to be in the best interest of the City to sell the Bonds to the VPSA at a price, determined by the VPSA at the time of sale to be fair and accepted by the City Manager, without further action by the Council, that is not less than 98% of par and not more than 103% of par upon the terms established pursuant to this Resolution, except that in the event the purchase price determined by VPSA would exceed the upper limit of 103%, the City, at the request of VPSA, will lower the amount of the Bonds to be issued to provide a purchase price for the Bonds and a proceeds amount that is within 103% of the amount requested pursuant to the City's application submitted to VPSA.

The City Manager is hereby authorized and directed to enter into a Bond Sale Agreement with the VPSA providing for the sale of the Bonds to the VPSA in substantially the form entered into by the City with the VPSA in connection with previous sales of general obligation school bonds by the City to the VPSA (the "Bond Sale Agreement").

3. Details of the Bonds. The Bonds shall be issuable in fully-registered form; shall be dated the date of issuance and delivery of the Bonds; shall be designated "General Obligation School Bonds, Series 2002B"; shall bear interest from the date of delivery thereof payable on July 15, 2003 and semiannually each January 15 and July 15 thereafter (each an "Interest Payment Date"), subject to the provisions of Section 4 of this Resolution and at the rates established in accordance with Section 4 of this Resolution; and shall mature on July 15 in each of the years (not exceeding forty (40) years from the date of the Bonds) (each a "Principal Payment Date") and in the amounts in each such year (the "Principal Installments") determined by the City Manager, without further action by the Council, subject to the provisions of Section 4 of this Resolution.

4. Interest Rates and Principal Installments. The City Manager is hereby authorized and directed, without further action by the Council, to accept the interest rates on the Bonds established by the VPSA; *provided* that each interest rate shall be ten one-hundredths of one percent (0.10%) over the interest rate to be paid by the VPSA for the corresponding principal payment date of the bonds to be issued by the VPSA (the "VPSA Bonds"), a portion of the proceeds of which will be used to purchase the Bonds, and *provided further* that the true interest cost of the Bonds does not exceed six per centum (6.00%) per annum. The Interest Payment Dates and the Principal Installments are subject to change at the request of the VPSA. The City Manager is hereby authorized and directed, without further action by the Council, to accept changes in the Interest Payment Dates and the Principal Installments at the request of the VPSA; *provided* that the aggregate principal amount of the Bonds shall not exceed the amount authorized by this Resolution. The execution and delivery of the Bonds as described in Section 8 hereof shall conclusively evidence such interest rates established by the VPSA and Interest Payment Dates and the Principal Installments requested by the VPSA as having been so accepted as authorized by this Resolution.

5. Form of the Bonds. For as long as the VPSA is the registered owner of the Bonds, the Bonds shall be initially in the form of a single, temporary typewritten bond substantially in the form attached hereto as Exhibit A.

6. Payment; Paying Agent and Bond Registrar. The following provisions shall apply to the Bonds:

(a) For as long as the VPSA is the registered owner of the Bonds, all payments of principal of and premium, if any, and interest on the Bonds shall be made in immediately available funds to the VPSA at or before 11:00 a.m. on the applicable Interest Payment Date or Principal Payment Date, or if such date is not a business day for Virginia banks or for the Commonwealth of Virginia, then at or before 11:00 a.m. on the business day next preceding such Interest Payment Date or Principal Payment Date.

(b) All overdue payments of principal and, to the extent permitted by law, interest shall bear interest at the applicable interest rate or rates on the Bonds.

(c) SunTrust Bank in the City of Richmond, Virginia, is hereby designated as Bond Registrar and Paying Agent for the Bonds.

7. No Redemption or Prepayment. The Principal Installments of the Bonds shall not be subject to redemption or prepayment. Furthermore, the Council covenants, on behalf of the City, not to refund or refinance the Bonds without first obtaining the written consent of the VPSA or the registered owner of the Bonds.

8. Execution of the Bonds. The Mayor or Vice Mayor and the Clerk of Council or any Deputy Clerk of Council are authorized and directed to execute and deliver the Bonds and to affix the seal of the City thereto.

9. Pledge of Full Faith and Credit. For the prompt payment of the principal of and premium, if any, and interest on the Bonds as the same shall become due, the full faith and credit of the City are hereby irrevocably pledged. In each year while any of the Bonds shall be outstanding, the Council is authorized and required to levy and collect annually, at the same time and in the same manner as other taxes of the City are assessed, levied and collected, a tax upon all taxable property within the City, over and above all other taxes, authorized or limited by law and without limitation as to rate or amount, sufficient to pay when due the principal of and premium, if any, and interest on the Bonds to the extent other funds of the City are not lawfully available and appropriated for such purpose.

10. Use of Proceeds Certificate and Certificate as to Arbitrage. The Mayor, the City Manager and such officer or officers of the City as either may designate are hereby authorized and directed to execute a Certificate as to Arbitrage and a Use of Proceeds Certificate each setting forth the expected use and investment of the proceeds of the Bonds and containing such covenants as may be necessary in order to show compliance with the provisions of the Internal Revenue Code of 1986 (the "Code"), and applicable regulations relating to the exclusion from gross income of interest on the Bonds and on the VPSA Bonds except as provided below. The Council covenants on behalf of the City that (i) the proceeds from the issuance and sale of the Bonds will be invested and expended as set forth in such Certificate as to Arbitrage and such Use of Proceeds Certificate and that the City shall comply with the other covenants and representations contained therein; and (ii) the City shall comply with the provisions of the Code so that interest on the Bonds and on the VPSA Bonds will remain excludable from gross income for federal income tax purposes.

11. State Non-Arbitrage Program; Proceeds Agreement. The Council hereby determines that it is in the best interest of the City to authorize and direct the Director of Finance to participate in the State Non-Arbitrage Program in connection with the Bonds. The Mayor, the City Manager and such officer or officers of the City as either may designate are hereby authorized and directed to execute and deliver a Proceeds Agreement with respect to the deposit and investment of proceeds of the Bonds by and among the City, the other participants in the sale of the VPSA Bonds, the VPSA, the investment manager and the depository, substantially in the form entered into by the City with the other

participants in the sale of the VPSA Bonds, the VPSA, the investment manager and the depository in connection with previous sales of general obligation bonds by the City to the VPSA, which form is hereby approved.

12. Continuing Disclosure Agreement. The Mayor, the City Manager and such officer or officers of the City as either may designate are hereby authorized and directed to execute a Continuing Disclosure Agreement, as set forth in an appendix to the Bond Sale Agreement, setting forth the reports and notices to be filed by the City and containing such covenants as may be necessary in order to show compliance with the provisions of the Securities and Exchange Commission Rule 15c2-12 and directed to make all filings required by Section 3 of the Bond Sale Agreement should the City be determined by the VPSA to be a MOP (as defined in the Continuing Disclosure Agreement).

13. Designation of BANS for Redemption. The Council hereby designates the BANS for redemption on December 9, 2002 or as soon thereafter as notice of redemption may be given at a redemption price equal to the principal amount thereof, together with the interest accrued thereon to the date fixed for the redemption thereof. The City Manager is hereby authorized to cause notice of the redemption of the BANS to be given in accordance with the provisions of the proceedings authorizing the issuance of the BANS.

14. Filing of Resolution. The Clerk of Council is hereby authorized and directed to file a copy of this Resolution, certified by the Clerk of Council to be a true and correct copy hereof, with the Circuit Court of the City.

15. Further Actions. The members of the Council and all officers, employees and agents of the City are hereby authorized to take such action as they or any one of them may consider necessary or desirable in connection with the issuance and sale of the Bonds and any such action previously taken is hereby ratified and confirmed.

16. Effective Date. This Resolution shall take effect upon its adoption.

Adopted:

Certified:

Clerk of Council

164LRes

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The undersigned Clerk of the Council of the City of Lynchburg, Virginia, hereby certifies that the foregoing constitutes a true and correct extract from the minutes of a regular meeting of the Council of the City of Lynchburg, Virginia, held on August 13, 2002, and of the whole thereof so far as applicable to the matters referred to in such extract. I hereby further certify that such meeting was a regularly scheduled meeting and that, during the consideration of the foregoing resolution, a quorum was present. Members present at the meeting were: _____. Members absent from the meeting were: _____. Members voting in favor of the foregoing resolution were: _____. Members voting against the foregoing resolution were: _____. Members abstaining from voting on the foregoing resolution were: _____.

WITNESS MY HAND and the seal of the Council of the City of Lynchburg, Virginia, this 13th day of August, 2002.

Clerk of Council
City of Lynchburg, Virginia

[SEAL]

EXHIBIT A

(FORM OF TEMPORARY BOND)

NO. TS-1

\$_____

**UNITED STATES OF AMERICA
COMMONWEALTH OF VIRGINIA
CITY OF LYNCHBURG
GENERAL OBLIGATION SCHOOL BOND
SERIES 2002B**

The CITY OF LYNCHBURG, VIRGINIA (the "City"), for value received, hereby acknowledges itself indebted and promises to pay to the **VIRGINIA PUBLIC SCHOOL AUTHORITY** the principal amount of _____ DOLLARS (\$_____), in annual installments in the amounts set forth on **Schedule I** attached hereto, payable on July 15, 2003 and annually on July 15 thereafter to and including July 15, ____ (each a "Principal Payment Date"), together with interest from the date of this Bond on the unpaid installments, payable on July 15, 2003 and semiannually on each January 15 and July 15 thereafter (each an "Interest Payment Date"; together with any Principal Payment Date, a "Payment Date"), at the rates per annum set forth on **Schedule I** attached hereto. Both principal of and premium, if any, and interest on this Bond are payable in lawful money of the United States of America.

For as long as the Virginia Public School Authority is the registered owner of this Bond, **SunTrust Bank**, in the City of Richmond, Virginia, as bond registrar (the "Bond Registrar"), shall make all payments of principal of and premium, if any, interest on this Bond, without the presentation or surrender hereof, to the Virginia Public School Authority, in immediately available funds at or before 11:00 a.m. on the applicable Payment Date. If a Payment Date is not a business day for banks in the Commonwealth of Virginia or for the Commonwealth of Virginia, then the payment of principal or premium, if any, or interest on this Bond shall be made in immediately available funds at or before 11:00 a.m. on the business day next preceding the scheduled Payment Date. Upon receipt by the registered owner of this Bond of such payments of principal, premium and interest, written acknowledgment of the receipt thereof shall be given promptly to the Bond Registrar, and the City shall be fully discharged of its obligation on this Bond to the extent of the payment so made. Upon final payment, this Bond shall be surrendered to the Bond Registrar for cancellation.

The full faith and credit of the City are irrevocably pledged for the payment of the principal of and interest on this Bond. The resolution adopted by the Council of the City authorizing the issuance of this Bond provides, and Section 15.2-2624 of the Code of Virginia, 1950, requires, that, in each year while any of the Bonds shall be outstanding, the Council shall be authorized and required to levy and collect annually, at the same time and in the same manner as other taxes of the City are assessed, levied and collected, a tax upon all taxable property within the City, over and above all other taxes, authorized or

limited by law and without limitation as to rate or amount, sufficient to pay when due the principal of and premium, if any, and interest on this Bond to the extent other funds of the City are not lawfully available and appropriated for such purpose.

This Bond is duly authorized and issued in compliance with and pursuant to the Constitution and laws of the Commonwealth of Virginia, including Title 15.2, Chapter 26 of the Code of Virginia, 1950 (the same being the Public Finance Act of 1991) and resolutions duly adopted by the Council of the City and the School Board of the City to provide funds for financing or refinancing capital school improvement projects.

This Bond may be exchanged without cost, on twenty (20) days written notice from the Virginia Public School Authority, at the office of the Bond Registrar on one or more occasions for two or more temporary bonds or definitive bonds in fully registered form in denominations of \$5,000 and whole multiples thereof, and; in any case, having an equal aggregate principal amount having maturities and bearing interest at rates corresponding to the maturities of and the interest rates on the installments of principal of this Bond then unpaid. This Bond is registered in the name of the Virginia Public School Authority on the books of the City kept by the Bond Registrar, and the transfer of this Bond may be effected by the registered owner of this Bond only upon due execution of an assignment by such registered owner. Upon receipt of such assignment and the surrender of this Bond, the Bond Registrar shall exchange this Bond for definitive Bonds as hereinabove provided, such definitive Bonds to be registered on such registration books in the name of the assignee or assignees named in such assignment.

The principal installments of this Bond are not subject to redemption or prepayment.

All acts, conditions and things required by the Constitution and laws of the Commonwealth of Virginia to happen, exist or be performed precedent to and in the issuance of this Bond have happened, exist and have been performed in due time, form and manner as so required, and this Bond, together with all other indebtedness of the City, is within every debt and other limit prescribed by the Constitution and laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, the Council of the City of Lynchburg, Virginia has caused this Bond to be issued in the name of the City of Lynchburg, Virginia, to be signed by its Mayor or Vice-Mayor, its seal to be affixed hereto and attested by the signature of its Clerk of Council or its Deputy Clerk of Council, and this Bond to be dated _____, 2002.

CITY OF LYNCHBURG, VIRGINIA

(SEAL)

Mayor

ATTEST:

Clerk of Council
City of Lynchburg, Virginia

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

(Please print or typewrite name and address, including zip code, of Assignee)

PLEASE INSERT SOCIAL SECURITY
OR OTHER TAX IDENTIFYING NUMBER OF ASSIGNEE:

the within Bond and irrevocably constitutes and appoints _____ attorney to exchange such Bond for definitive bonds in lieu of which this Bond is issued and to register the transfer of such definitive bonds on the books kept for registration thereof, with full power of substitution in the premises.

Date: _____

Registered Owner

Signature Guaranteed:

(NOTICE: Signature(s) must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Bond Registrar which requirements will include Membership or participation in STAMP or such other “signature guarantee program” as may be determined by the Bond Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

(NOTICE: The signature above must correspond with the name of the Registered Owner as it appears on the front of this Bond in every particular, without alteration or change.)

